

**Rejection of Claims 12-17 and 24-26 under 35 USC 112, second paragraph**

Claims 12-17 and 24-26 stand rejected under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention.

Claim 12 has been amended to include the limitations of claims 13, 14, 16 and 24. Claim 12 has also been amended in accordance with the Examiner's remarks to provide antecedent basis for the listed elements. Claims 13-17 and 24 have been cancelled by this response. Claims 25 and 26 are dependent on Claim 12. In view of the amendments to claim 12, the cancellation of claims 13-17 and 24 and the dependence of claims 25 and 26 on allowable claim 12 it is respectfully submitted that this rejection is overcome and should be withdrawn.

**Rejection of Claims 12-17 and 25 under 35 USC 103(a)**

Claims 12-17 and 25 stand rejected under 35 USC 103(a) as being unpatentable over Barre '889 in view of Vandeventer '275.

Claim 12 has been amended to include the limitations of allowable claim 24. The limitations present in claims 13, 14, 16 and 24 have been added to claim 12. Claim 24 has been indicated as allowable if placed in independent form including all of the limitations of the base and any intervening claims. Independent claim 12 now includes all the limitations in original claim 24 and thus is likewise allowable. Claims 13-17 have been cancelled. Claim 25 is dependent on now allowable independent claim 12 and is thus also allowable. In view of the amendments to claim 12 and the amendment of all remaining claims to be dependent on allowable claim 12, it is respectfully

submitted that this rejection is now moot and thus should be withdrawn.

**Rejection of Claims 12-17 and 26 under 35 USC 103(a)**

Claims 12-17 and 26 stand rejected under 35 USC 103(a) as being unpatentable over Perrine '166 in view of Vandeventer '275.

Claim 12 has been amended to include the limitations of allowable claim 24. The limitations present in claims 13, 14, 16 and 24 have been added to claim 12. Claim 24 has been indicated as allowable if placed in independent form including all of the limitations of the base and any intervening claims. Independent claim 12 now includes all the limitations in original claim 24 and thus is likewise allowable. Claims 13-17 have been cancelled. Claim 26 is dependent on now allowable independent claim 12 and is thus also allowable. In view of the amendments to claim 12 and the amendment of all remaining claims to be dependent on allowable claim 12, it is respectfully submitted that this rejection is now moot and thus should be withdrawn.

The present invention discloses a toothbrush assembly including a handle section having a shape of an animated object, the handle being held during use at the torso section of the object. A bristle head extends from a top end of the handle and faces in the direction of a front of the animate object. Extending from a base side of the handle is a stand in a shape of feet matched to the shape of the animated object. The stand/feet extends perpendicular to the handle section and in same direction of the bristles and retains the handle in a vertical position when placed on a horizontal surface. A cover in a shape of a head matching the animate object is provided for selectively covering the bristles. The stand allows a child to simply place the toothbrush assembly on a countertop to retain the toothbrush in a vertical position. No other action is

necessary to retain the toothbrush in this position. Furthermore, the shaping of the handle and stand as an animate object is attractive to children thereby inducing them to brush their teeth. Facing the animated object in a direction towards the children as they brush their teeth further acts to retain their attention while they brush their teeth resulting in the children spending additional time brushing their teeth.

The patent to Barre discloses a toothbrush assembly including a toothbrush and a stand for holding the object. The stand includes a base section and a pole extending therefrom. On a side of the pole opposite the base section is a collar for receiving the toothbrush therein and retaining the toothbrush in an upright position. Extending from the collar section of the stand are arms and hands projecting an image of a cartoon or human caricature. This device does not include a stand extending from an end of the handle opposite the bristles nor a stand that receives the handle in a recess formed in the base section as claimed by the present invention. The construction of the stand of this device requires additional manipulation by small children to cause the stand to retain the toothbrush in an upright position. Furthermore, when the toothbrush is removed from the stand the assembly does not retain its image of a human or cartoon caricature as the toothbrush handle does not have any features shaped as such caricature. Only the arms and hands extending from the collar of the stand provide this image.

The patent to Vandeventer discloses a toothbrush and dentifrice device. This device includes a cover for placement over the bristles. The cover disclosed by this device is not in a shape matching that of the animate object shape of the handle and stand and thus does not obtain the objective of the present claimed invention, i.e. to provide a toothbrush which is attractive to children for inducing the children to brush their teeth. Furthermore, placement of a cover as disclosed by this reference to cover the bristles of the toothbrush of Barre would also detract from the image desired to be

projected. Placement of such a cover on the toothbrush of Barre would not project an image of any animate object when the toothbrush is removed from the stand as the toothbrush does not include any features characteristic of the caricature, only the arms and hands extending from the collar of the stand provide this image. In fact, placement of the cover over the bristle head of Barre would provide an image of a caricature with a bag over its head when placed in the stand. This image will not induce children to brush their teeth but may in fact scare children causing them to detest brushing their teeth.

The patent to Perrine discloses a handle having bristles extending from one side thereof and a stand facing in a direction opposite the bristles. Furthermore, on a side of the handle opposite the bristles is a shape of a face to match the caricature shape of the handle and stand. Such a device would not require a cover as claimed by the present invention shaped to match the shape of the handle and stand to complete the desired image. In fact, such a cover would simply cover the face formed on the opposite side of the bristles. Furthermore, the shape of the assembly providing the image of the animated object is facing away from the child as the child brushes takes the attention of the child away from brushing the teeth, directing the attention to where the object went as the child can no longer view the object during brushing. This will cause the child to frequently remove the toothbrush from their mouth in order to view the object and thereby inhibit the attempt to get children to brush their teeth more frequently.

New claims 27-45 have been added to this application. These claims include limitations directed to the distinguishing features outlined above such as the combination of the handle, stand, cover and base to complete an image of an animate object which faces the child during brushing and the connection between the handle and stand to retain the toothbrush in an upright vertical position. In view of the above

remarks distinguishing these claims from the prior art cited by the Examiner it is respectfully submitted that these claims are in condition for allowance.

Claim 24 has been indicated as allowable if rewritten to include the limitations of the base and any intervening claims. The limitations of allowable claim 24 have been placed in independent claim 12. In view of the amendment to claim 12 it is respectfully submitted that all claims dependent on claim 12 are also in condition for allowance.

As all the claims remaining in the application (Claims 1-6, 12, 15 and 25-45) are in condition for allowance, it is respectfully requested that the Examiner pass this application to issue.

The prior art made of record has been considered by the applicant. It is respectfully submitted that this application is patentable and unobvious over this prior art.

The present application now includes four independent claims and twenty nine total claims. The claim fees to cover a total of twenty six claims and two independent claims have already been paid. A check is being filed herewith to cover the fees for one additional independent claim and three additional total claims above the number of claims already paid for.

Based upon the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by

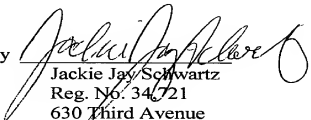
Examiner's amendment, if the Examiner feels this would facilitate passage of the case to issuance.

Alternatively, should the Examiner have any questions, comments, or feel that a personal discussion might be helpful in advancing this case to allowance and issuance, she is cordially invited to contact the undersigned attorney at the address and telephone number listed below, so that the present application can receive an early notice of allowance.

Respectfully submitted,

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By



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